



**STATE OF TENNESSEE
DEPARTMENT OF HUMAN SERVICES**

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PHIL BREDESEN
Governor

VIRGINIA T. LODGE
Commissioner

September 17, 2009

Phillip M. DeBusk, Legislative Liaison
Performance Audit
Division of State Audit
Office of the Comptroller of the Treasury
James K. Polk State Office Building, Suite 1500
Nashville, TN 37243-0264

Dear Mr. DeBusk:

Pursuant to your memorandum of September 3, 2009, please find the attached responses of the Department of Human Services for the Sunset review hearing for the Tennessee Advisory Board for Rehabilitation Centers which is scheduled for Sunset public hearing before the general welfare, health and human services subcommittee of the Government Operations Committee on September 23, 2009 at 8:30 a.m.

We will bring the required eight copies of our response to the public hearing. If you have any questions regarding our response please contact Alan Hall, Inspector General, at 615-313-4715.

Sincerely,

Virginia T. Lodge
Commissioner

VTL:ALC/vc

Cc: Ed Lake, Deputy Commissioner, Department of Human Services
Andrea Cooper, Assistant Commissioner, Department of Human Services
Bill Russell, General Counsel, Department of Human Services
Nathalie Essex, Legislative Liaison, Department of Human Services.

Sunset Public Hearing Questions for
Advisory Board for Rehabilitation Centers
Created by Section 49-11-704, *Tennessee Code Annotated*
(Sunset termination June 2010)

1. *Provide a brief introduction to the board, including information about its purpose, statutory duties, staff, and administrative attachment.*

The Advisory Board for Rehabilitation Centers was created by the Tennessee General Assembly under Tennessee Code Annotated 49-11-704 44 years ago to: (1) Consider and advise the Commissioner and the Division of Rehabilitation Services (DRS) on broad issues and policies; (2) Review periodically the progress of the rehabilitation center programs and to help maintain coordination between programs and related programs of organizations and agencies represented on the board; (3) Assist the Division in developing public relation programs; (4) Periodically review state and federal laws, the Tennessee State Plan and policy manual relating to the community Tennessee Rehabilitation Centers (TRCs) and assist in promoting employment of customers of DRS. The only staff member is the board's liaison.

2. *Provide a list of current members of the board and explain how membership complies with Section 49-11-704, Tennessee Code Annotated. Are there any vacancies on the board? If so, what steps have been taken to fill the vacancies?*

There are ten members appointed by the Commissioner of the Department of Human Services (DHS) from private organizations and agencies. The remaining five are *ex-officio* members from the Department of Mental Health and Developmental Disabilities, the Department of Labor and Workforce Development, the Division of Rehabilitation Services of the Department of Human Services, and the Department of Education. The Tennessee committee on employment of persons with disabilities no longer exists, so the board has five *ex-officio* members instead of six as prescribed by Section 49-11-704, Tennessee Code Annotated. There are no vacancies on the board at this time.

The following are members of the board:

Isaac Okoreeh-Baah	Business/Civic Representative
Carl Brown	Business/Civic Representative
Murleane Steinbuck	Business/Civic Representative
Juan Chirigliano	Business/Civic Representative
Barbara Johnson	Business/Civic Representative
Christine Hopkins	Business/Civic Representative
Tyles Davenport	Business/Civic Representative
Kerrie Heckethorn	Business/Civic Representative
Eddie Brunswick	Business/Civic Representative
Janet Rose Young	Business/Civic Representative

ex-officio members

Andrea Cooper	Assistant Commissioner, Division of Rehabilitation Services, Department of Human Services
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Kay Flowers	Compliance Consultant, Department of Education
Susan Kirk	Director 2, Department of Human Services
Lisa Ragan	Coordinator, Department of Mental Health and Developmental Disabilities
Thomas Wilson	Supervisor, Department of Labor and Workforce Development.

3. *Does the board's membership include public/citizen members? Female members? Members of a racial minority? Members who are 60 years of age or older?*

Nine (9) public citizen/members, nine (9) female members, six (6) males, five (5) members of a racial minority and five (5) members 60 years of age or older.

4. *How many times did the board meet in fiscal years 2008 and 2009, and how many members were present at each meeting?*

The board met three times in 2008 and is scheduled to meet three times in 2009.

FY 2008

FY 2009

<u>Date</u>	<u># Present</u>
10/07	11
03/08	10
06/08	10

<u>Date</u>	<u># Present</u>
10/08	10
03/09	9

5. *What per diem or travel reimbursement do board members receive? How much was paid to board members during fiscal years 2008 and 2009?*

Appointed members are reimbursed for travel according to the Department of Finance and Administration Guidelines.

FY 07/08
\$3,040.56

FY 08/09
\$3,269.50

6. *What were the board's revenues (by source) and expenditures (by object) for fiscal years 2008 and 2009?*

Object	Descriptions	FY 08 Expenditures	FY 09 Expenditures
03	In-state lodging, meals, parking, registration fees	\$2,307.41	\$1,384.50
08	Travel by non-state employees	\$3,040.56	\$3,269.50
Total		\$5,347.97	\$4,654.00

Source: Federal: 78.7%, Local: 21.3%

Board reimbursements are limited to the amounts detailed in Question #5.

7. *Is the board subject to Sunshine law requirements (Section 8-44-101 et seq., Tennessee Code Annotated) for public notice of meetings, prompt and full recording of minutes, and public access to minutes? If so, what procedures does the board have for informing the public of meetings and making minutes available to the public?*

The board is subject to the Sunshine Law. Notice of meetings is sent to all board members and community TRCs. Minutes taken by the board secretary are distributed to board members prior to each meeting and are printed and available at each meeting. Minutes are on file and can be requested from the board liaison, Suzanne Hilgadiack.

8. *Please describe what policies and procedures the board has in place to address potential conflicts of interest by board members, staff and employees.*

Board members who have a conflict of interest pertaining to a particular motion, are required to abstain from voting. Conflicts of interest may include, but not limited to, personal and or financial gain.

9. *What were the board's major accomplishments during fiscal years 2008 and 2009?*

2008 Major Accomplishments

1. Assisted with the design and procurement of community TRC marketing materials for the use of increasing public awareness and job opportunities for individuals with disabilities.
2. Board liaison addressed the topic of programs and services to individuals with disabilities at the 2008 Mega Conference.
3. The board liaison attended employer recognition events at community TRCs and acknowledged employers who have hired individuals with disabilities.

2009 Major Accomplishments

1. Directed that DRS provide training on the benefit of community TRC programs and services for the following:
 - * Veterans Administration
 - * Tennessee Army National Guard
 - * National Guard
 - * Wounded Warrior Division of U.S. Marine Corps
2. The board liaison provided career counseling and job search strategy training for individuals with disabilities to participants at the 2009 Mega Conference.
3. State Advisory Board members attended a Diversity Consortium to promote disability awareness and the employment of individuals with disabilities.

4. Board chair, Kerrie Heckethorn, attended “Disability Day on the Hill” and spoke with legislators regarding community TRC programs and the employment of individuals with disabilities.

10. *What reports does the board prepare concerning its activities, operations and accomplishments? Who receives copies of these reports? Please attach copies of any such reports issued during fiscal years 2008 and 2009.*

The Annual Report is submitted to board members and community TRC staff, and is available upon request. The 2008 Annual Report is attached as Exhibit 1. The 2009 Annual Report is still being compiled at the time this response was due.

11. *Does the board have authority to promulgate rules? If not, is rule-making authority needed? If rules have been promulgated, please cite the reference.*

The board does not have the authority to promulgate rules. Rule-making authority is not needed.

12. *Describe the purpose and activities of the rehabilitation centers. How many centers have been established, and in what locations? Has each center been incorporated? What funds are budgeted for the centers in fiscal years 2008 and 2009?*

A network of eighteen community TRCs provide rehabilitation and training services to individuals with disabilities who have been referred for services through the DRS. Services include: vocational evaluations, employee development training and community employment services. These services assess individuals with disabilities, developing self awareness and skills necessary to achieve a higher level of independence and successful employment. The centers are not incorporated as they are a part of DHS.

Center/Location	2008 Funds	Federal/Local		2009 Funds	Federal/Local/State		
Camden	306,377	214,464	91,913	328,349	229,844	98,505	
Clarksville	314,264	219,985	94,279	475,169	332,618	142,551	
Cleveland	337,338	236,137	101,201	307,908	215,536	92,372	
Columbia	303,171	212,220	90,951	297,582	208,307	89,275	
Cookeville	354,661	248,263	106,398	464,350	325,045	139,305	
Dyersburg	294,384	206,069	88,315	308,456	216,969	88,918	2,569
Elizabethton	310,857	217,600	93,257	345,803	245,421	92,158	8,224
Franklin	332,324	232,627	99,697	305,465	213,826	91,639	
Gallatin	468,111	327,678	140,433	496,176	350,845	136,706	8,625
Greeneville	302,731	211,912	90,819	350,669	249,239	92,198	9,232
Lafayette	39,128	27,390	11,738	46,912	32,838	14,074	
Manchester	330,903	231,632	99,271	352,515	247,578	102,935	2,002
Maryville	396,805	277,764	119,042	412,354	288,648	123,706	
Murfreesboro	279,593	195,715	83,878	257,984	180,589	77,395	
Paris	332,677	232,874	99,803	371,186	259,830	111,356	
Shelbyville	401,728	281,210	120,518	394,362	276,053	118,309	
Union City	382,162	267,513	114,649	377,016	263,911	113,105	

Winchester	287,116	200,981	86,135	312,630	218,841	98,505	
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- In FY 09 5 TRC employees took the buyout offered by the state. The buyout salary and related benefits were funded by federal funds and state dollar match provided by the legislature.

13. Does each incorporated center have a board of directors? What is the function of each center's board of directors?

In accordance with T.C.A. 49-11-703, each community TRC has an appointed local advisory board. The functions of the advisory board include: (1) Responsible for reviewing the established general policy for the Rehabilitation Center; (2) Promote (a) community support and education concerning the employment of persons with disabilities, and (b) the development of opportunities in the community for the employment of such persons; (3) Assist center manager in presenting the proposed local operating budget to the proper officials for certification; (4) Responsible for assisting center manager and state staff in developing the center's evaluation, employee development and placement programs to apply locally; (5) Assist center manager and the vocational rehabilitation counselor in referring persons with disabilities to the center for its services.

14. Describe any items related to the advisory board that require legislative attention and your proposed legislative changes.

There are none currently.

15. Should the advisory board be continued? To what extent and in what ways would the absence of the board affect the public health, safety, or welfare?

Yes, the State Rehabilitation Advisory Board should be continued. The board continues to network with various government agencies, civic organizations, employers and citizens to promote disability awareness and improve employment opportunities for persons with disabilities. The board provides statewide representation to develop and improve resources and promote program services within the communities the TRCs are located. The board's ability to network with local and state government officials help ensure continued local financial support necessary for each center's operation.

16. Please list all board or rehabilitation center system programs or activities that receive federal financial assistance and, therefore are required to comply with Title VI of the Civil Rights Act of 1964. Include the amount of federal funding received by program/activity.

Please refer to Chart in #12.

If the board or rehabilitation center system does receive federal assistance, please answer questions 17 through 24. If the board or rehabilitation center system does not receive federal assistance, proceed directly to question 23.

17. *Does your board or rehabilitation center system prepare a Title VI plan? If yes, please provide a copy of the most recent plan.*

The board liaison works under the authority of DHS, which maintains and implements the Department's Title VI Plan.

18. *Does your board or rehabilitation center system have a Title VI coordinator? If yes, please provide the Title VI coordinator's name and phone number and a brief description of his/her duties. If not, provide the name and phone number of the person responsible for dealing with Title VI issues.*

Our departmental compliance coordinator is Jeffrey Blackshear, 615-313-4748. Mr. Blackshear keeps records of Title VI implementation plan and any and all Title VI complaints for DHS. He assigns investigations when complaints are made. All Title VI documentation requirements are kept in his office.

19. *To which state or federal agency (if any) does your board or rehabilitation center system report concerning Title VI? Please describe the information your board or rehabilitation center system submits to the state or federal government and/or provide a copy of the most recent report submitted.*

The board does not report Title VI compliance separately from the Department of Human Services.

20. *Describe your board or rehabilitation center system's actions to ensure that board or rehabilitation center system staff and clients/program participants understand the requirements of Title VI.*

All board staff work under the authority of DHS, which maintains and implements the Department's Title VI plan. DHS conducts annual Title VI training and documents attendance at this training. All employees of DHS are trained annually on Title VI.

21. *Describe your board or rehabilitation center system's actions to ensure it is meeting Title VI requirements. Specifically, describe any board or rehabilitation center system monitoring or tracking activities related to Title VI, and how frequently these activities occur.*

The liaison to the board and DRS staff monitor compliance with Title VI, including insuring that staff is trained annually.

22. *Please describe the board or rehabilitation center system's procedures for handling Title VI complaints. Has your board or rehabilitation center system received any Title VI-related complaints during the past two years? If yes, please describe each complaint, how each complaint was investigated, and how each complaint was resolved (or, if not yet resolved, the complaint's current status).*

DHS has a formal complaint process requiring reporting, investigating, and composing a written response to the person filing the complaint. All complaints must be reported both to

the DRS coordinator (Thomas Hannon, 615-313-5516) and to the Department's compliance officer (Jeffrey Blackshear, 615-313-4748). There have been no Title VI-related complaints regarding the board during the past two years.

23. *Please provide a breakdown of current board or rehabilitation center system staff by title, ethnicity, and gender.*

There is no board staff. Suzanne Hilgadiack, white, female serves as Department liaison to the board.

24. *Please list all board or rehabilitation center system contracts, detailing each contractor, the services provided, the amount of the contract, and the ethnicity of the contractor/business owner.*

There are no board contracts.

REHABILITATION CENTER
STATE ADVISORY BOARD
ANNUAL REPORT

SEPTEMBER 2008

The State Advisory Board for Tennessee Rehabilitation Centers was created in 1965 by the Tennessee General Assembly. The applicable statute can be found at Tennessee Code Annotated Section, 49-11-704. The board is located within the Tennessee Department of Human Services (DHS) and is an integral part of the Division of Rehabilitation Services (DRS).

Our Mission

To enhancing the development of a diverse workforce so individuals with disabilities can achieve meaningful careers.

Responsibilities:

The State Rehabilitation Center Advisory Board has the statutory responsibility to:

1. Consider and advise DRS on broad issues and policies.
2. Review monthly and annual reports from the community Tennessee Rehabilitation Centers.
3. Assist DRS in evaluating center policies and procedures.
4. Assist DRS in program development by serving as a sounding board for new ideas.
5. Assist in maintaining coordination between the programs and services offered by the centers with those offered by other agencies represented on the board.
6. Assist DRS in development of public relations programs.
7. Periodically review state and federal laws, the vocational rehabilitation state plan, and vocational rehabilitation policy relating to the community Tennessee Rehabilitation Centers.
8. Assist in promoting employment of clients of DRS.

The board participated in a number of activities during fiscal year 2008 which included:

- Meeting with community leaders and employers to provide disability awareness information.
- Promoting the training and hiring of individuals with disabilities.
- Promoting disability awareness to legislature.

- Recommending the development of community TRC marketing materials.
- Promoting interagency education and program training to enhance opportunities for individuals with disabilities.
- Participating as presenters at annual Mega Conference.
- Directing DRS to ensure accreditation of community TRCs by the Commission on Accreditation of Rehabilitation Facilities.

Community Tennessee Rehabilitation Centers

The board participates in community events and civic organizations to promote community TRC programs serving persons with disabilities.

The following statistics demonstrate the utilization of services provided by the eighteen community TRCs:

Number of clients successfully completing services during FY2008.

• Vocational Evaluation	1776
• Employee Development Services	421
• Employment	264
Average Weekly wage earned by clients obtaining employment	\$310.34

Members are appointed to the board by the Commissioner of the Department of Human Services and serve voluntarily without compensation. The current members of the board are:

Andrea Cooper, Assistant Commissioner, Division of Rehabilitation Services
Carl Brown
Eddie Brunswick
Juan Chirigliano
Tyles Davenport
Kay Flowers
Kerrie Heckethorn
Christine Hopkins
Barbara Johnson
Susan Kirk
Isaac Okoreeh-Baah
Lisa Ragan
Murleane Steinbuck
Janet Rose Young
Thomas Wilson

Title VI Implementation Plan

Department of Human Services

PERIOD COVERED:

JULY 1, 2008 – JUNE 30, 2009

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SECTION 1 INTRODUCTION

Purpose

The purpose of Title VI of the Civil Rights Act of 1964 is to prohibit programs that receive federal funds from discriminating against participants on the basis of race, color or national origin.

Title VI of the Civil Rights Act of 1964, as codified in 42 U.S.C. 2000d, states:

No person in the United States shall, on the ground of race, color or national origin, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving federal financial assistance.

The intent of the law is to ensure that all persons, regardless of their race, color, or national origin, are allowed to participate in these federally funded programs. To ensure that the Department meets its compliance responsibility, the following procedures have been established to provide for monitoring of Title VI compliance, activities and complaint processing in programs directly or indirectly responsible to the Department (i.e. the Department's own programs, contracted services, and Departmental-funded community service organizations, all of which receive federal/state funding in whole or part).

Scope

In 1991, the Tennessee General Assembly passed Public Chapter 112, which requires each entity of state government to develop a Title VI Implementation Plan to be reviewed annually. Governor Ned McWherter signed Executive Order No. 66 which directed all state Commissioners to review current programs for Title VI compliance. Both requirements remain in effect (see Attachments A and B).

The Title VI policy applies to all programs and facilities operated directly by the Department and to all facilities and programs operated by individuals or groups under contract with the Department.

SECTION 2 OVERVIEW OF THE DEPARTMENT

Departmental Description

The mission of the Department is to provide an effective system of services to promote self-sufficiency and improve the quality of life for disadvantaged, disabled, or vulnerable Tennesseans.

Each month, the Department provides opportunities and services to almost one million people striving for a better quality of life. Approximately 12,000 state employees administer more than 40 different types of services throughout Tennessee. With more than 100 office locations (some of which are shared with other agencies), the Department is one of the few state agencies with offices in all 95 counties.

When Tennessee became a state in 1796, the administration of “poor relief” became a county duty and was placed in a court system that extended into the most remote sections of each county. In 1827, new legislation allowed the counties to establish almshouses to provide for the poor and any other persons who could not care for themselves because of disability or incompetence.

In 1920, the state Legislature appropriated funds for a Welfare Division in the State Department of Institutions. In 1933, the Tennessee State Relief Administration (TSRA) was organized to administer federal relief funds in the state. The TSRA was later changed to the Tennessee Welfare Commission, which was succeeded by the Department of the Institutions and Public Welfare in 1947. In May 1970, the Department’s name changed to the Department of Human Services (DHS).

In September 1996, a major program change came about in the structure of the Department’s welfare program. The Federal Aid to Families with Dependent Children (AFDC) program was replaced by the Temporary Assistance to Needy Families (TANF) programs. The state’s version of the welfare program is Families First. In July 2002, the Department began determining eligibility for TennCare applicants and reverification for current recipients.

The Department is now comprised of the following divisions:

Adult & Family Services Division

Families First Provides cash grants, education, job training, child care, employment assistance, and transitional benefits to poor or low-income Tennesseans working toward a lifestyle without welfare to become self-sufficient.

Food Stamp Program—Helps low-income families with benefits that are a 100% federally funded. The program helps individuals and families buy the food they need to maintain good health. The Department staff determines eligibility of applicants and handles distribution of the Electronic Benefit Transfer (EBT) cards that are provided by the USDA and accepted by grocers for the purchase of food.

Medicaid/TennCare—

Provides federal and state medical assistance for families with children and for elderly and/or disabled citizens. In 1994, the State of Tennessee implemented a new health care reform plan called TennCare. TennCare extended coverage to the Medicaid population and coverage to individuals who were determined to be uninsured or uninsurable, using a system of Managed Care Organizations (MCO). Effective July 1, 2002, the Bureau of TennCare moved eligibility determination for TennCare Standard to the Department of Human Services. Eligibility was closed for all new applicants, both adults and children, for TennCare Standard effective close of business April 29, 2004. Eligibility was also closed for new enrollment to the non-pregnant adult Medicaidly Needy Medicaid category. Children under age 19 who are losing Medicaid have an opportunity to qualify for TennCare Standard. Eligibility determination for Medicaid/TennCare is the responsibility of the Department's staff.

Child and Adult Care—Plans, implements, and coordinates improvements in the child care system using available federal and state dollars. Activities and programs are focused on increasing childcare quality, accessibility, and availability. The program includes Child Care Licensing, Certificate Program, and the Tennessee Child Care Facilities Corporation. This section also administers the Child and Adult Care Food Program.

Child Care Facilities Corporation—Provides financial and technical assistance to Tennessee's child care industry in the form of loan guarantees, direct loans, grants and free or low cost training events and small business consultation.

Adult Day Care Licensing: Provides assistance to persons wanting to establish a licensed adult day care center, locate an adult day care center, or file a complaint. One of the requirements of licensure is that adult day care centers have 10 or more participants.

Adult Protective Services—Provides assistance to vulnerable adults who are abused, neglected, or financially exploited and unable to protect themselves due to mental or physical impairments, or advanced age.

Community Services □ Provides assistance to help low income families or individuals who are homeless, in a crisis situation, in need of home delivered meals, chore services, or transportation through contracts with private and nonprofit agencies for social services that supplement those services provided directly by the Department. The federal funding sources include the Community Services and Social Services Block Grant Programs, Refugee Assistance Program, Low Income Energy Assistance, Emergency Shelter Grants, and Weatherization Assistance Program.

Child Support Division

This division provides services that are administered through contracts with 19 district attorneys, one (1) juvenile court, ten (10) private contractors, and one (1) Departmentally-operated jurisdiction. Services include locating non-custodial parents, establishing paternity, establishing and enforcing financial and medical support orders, reviewing and adjusting support orders, and collecting and distributing child support payments.

Rehabilitation Services Division

Vocational Rehabilitation Services □ Provides assistance to Tennesseans with disabilities to help them enter or return to the job market. Services include training, medical services, employment counseling, and job placement.

TN Rehabilitation Center (TRC) & Facilities Network: Provide vocational evaluation, work adjustment, and job placement. TRC, the state's only residential vocational rehabilitation training facility, also offers independent living skills training.

Services for the Blind & Visually Impaired □ Provides rehabilitation services to the blind or visually impaired to promote employment, independent living, and adjustment to blindness.

TN Council for the Deaf and Hard of Hearing □ Coordinates communication, information, and advocacy services for deaf Tennesseans through regional Community Service Centers for the deaf.

Disability Determination Section □ Makes disability determinations for the Social Security Administration for Tennesseans applying for Disability Insurance Benefits (DIB) and Supplemental Security Benefits (SSI) through the Social Security Program.

Appeals/Hearings Division

Responsible for all appeals and hearings for DHS programs, including Medicaid/TennCare, Food Stamps, Child Support, and Families First. Staff review appeals cases, administer fair hearing processes, and communicate findings with DHS clients.

Human Resources

Responsible for administering personnel policies and procedures in accordance With Civil Service rules and regulations. Duties and responsibilities include recruitment and hiring, Salary policy administration, leave and attendance, employee benefits, Affirmative Action And Equal Employment Opportunity, ADA, grievances and training.

Finance and Administration Division

Information Systems: Oversees data processing, design, and maintenance of the Department's computer based systems. This section is also responsible for the installation and maintenance of computer hardware/software.

Office Services: Manages the purchasing of equipment and services, inventory, printing, telephones, office space, and mail services.

Contract Administration: Provides technical assistance to the Department's executive and program staff in creating contracts, grants, Requests for Proposal, Delegated Authorities and Amendments. Ensures that all contract language complies with State Contracting Rules, Regulations and Policy. Oversees and maintains the Contract Administration and Tracking system for the Department.

Budget: The overall objective of this section is to identify, develop, and maintain financial data that is useful to management in developing and evaluating Department programs. Specifically, the Budget staff is responsible for several financial and administrative functions such as the preparation of the Department's budget. Personnel also provide financial management data, analysis of state and federal legislation, and budgetary support to program staff.

Fiscal Services (except Child Support):

Handles cash management, disbursements, issuance of financial reports, maintenance of accounting records, and financial reports for the Department's funding sources.

Office of Inspector General

Program Assessment: Conducts fair hearings and appeals for nonfamily assistance programs and administrative disqualification hearings. Staff in this section also conduct quality control reviews of the food stamp program.

Internal Audit: Their objective is to assist members of the Department in the effective discharge of their responsibilities. The staff performs systematic reviews to ensure that adequate internal controls are in place and to determine compliance with applicable laws, regulations, program requirements, policies and procedures. Internal auditors are also assigned special projects, particularly matters involving fraud or unusual matters. This section coordinates external audits and reviews the different programs administered by the Department, and participates in the implementation of corrective actions as deemed appropriate.

Investigations Investigates referrals of fraud and abuse in all the different programs administered by the Department. Staff handles adjudication and collection activities for over issuance/overpayment claims in DHS programs.

General Counsel's Office

Provides legal assistance regarding Department programs. Staff conducts legal research of state and federal laws and regulations that affect Department programs. The Compliance Officer ensures that DHS adheres to and complies with state and federal regulations, including HIPAA (Health Insurance Portability and Accountability Act), Title VI, Title I, Ethics, and Motor Voter. This office also provides legal advice and training to State Office, District and County staff, prepares legal documents, and provides legal representation in administrative and judicial proceedings. The Office of the General Counsel reviews all legislation that may affect the Department, prepares necessary legislation, and represents the Department at the Tennessee General Assembly.

Communications Office

Coordinates the Department's public information and public relations efforts, serves as a media consultant to DHS supervisors and executive staff, and provides assistance with planning, writing, editing, and publishing agency publications.

SECTION 3 PROGRAM COVERAGE

How does the Agency define federal assistance? (For example, grant, loan, contract, property, etc.)

The Department receives federal funding from various federal agencies in order to provide federal mandated programs. These agencies include□

- U.S. Department of Agriculture
- U.S. Department of Education
- U.S. Department of Energy
- U.S. Department of Health and Human Services
- U.S. Department of Housing and Urban Development

Federal revenues received by the Department are divided into the following types of financial assistance□

Formula Grants □ Allocations of money to states or their subdivisions in accordance with a distribution formula prescribed by law or administrative regulation, for activities of a continuing nature not confined to a specific project.

Project Grants □ The funding, for fixed or known periods, of specific projects or the delivery of specific services or products without liability for damages for failure to perform. Project grants include fellowships, scholarships, research grants, training grants, traineeships, experimental and demonstration grants, evaluation grants, planning grants, technical assistance grants, survey grants, construction grants, and unsolicited contractual agreements.

Direct Payments for Specified Use □ Financial assistance from the federal government provided directly to individuals, private firms, and other private institutions to encourage or subsidize a particular activity by conditioning the receipt of the assistance on a particular performance by the recipient. This does not include solicited contracts for the procurement of goods and services for the federal government.

Direct Payments with Unrestricted Use □ Financial assistance from the federal government provided directly to beneficiaries who satisfy federal eligibility requirements with no restrictions being imposed on the recipient as to how the money is spent. Included are payments under retirement, pension, and compensation programs.

The Department expends federal funds through grants to individuals (TANF grants, for example), grants to private or public non-profit agencies, contracts and

direct expenditures for staffing, etc., for the provision of services to our client population.

Does the Agency identify all of its subrecipients and types of contractual agreements?

The Department has developed a tracking system, Contract Administration Tracking System (CATS), for all subrecipients (grants and contracts). The system captures the following information□

- State Allotment Code
- Request for Service Number
- Contract Agency
- Vendor Number
- County (where contractor's main office is located)
- Funding (State, Federal, Other)
- Contract Period
- Description □ Contract Number
- Catalog of Federal Domestic Assistance Number (CFDA Number)
- Type of Agency (Public, Private Non-Profit, For Profit, etc.)
- Service Code (Service to be provided)
- Racial/Ethnic/Gender Classification

This information is available for use by program and financial managers and other interested parties.

How does the Agency track the dollars going from the central office to the field offices and who is directly benefiting from the assistance?

The total amount of the contract awarded to contractors is recorded in a database maintained by the Department's Contracts Coordinator. However, the Department does not have a mechanism in place to track the dollars from the contractors to the field offices. Clients and participants are the primary beneficiaries from the assistance.

Federal Grants

<u>Programs by Federal Agency</u>	<u>Catalog of Federal Domestic Assistance (CFDA) Number</u>
U.S. DEPARTMENT OF AGRICULTURE	
Food Stamp Program	1□.□□1
Child and Adult Care Food Program	1□.□□8
Summer Food Service Program for Children	1□.□□9
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State Administrative □atching Grants for Food Stamp Program	1□.□61
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Child Support Enforcement	91.161
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Social Services <input type="checkbox"/> Block Grant	91.667
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Employment <input type="checkbox"/> Ones	91.181
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SECTION 4

ORGANIZATION/CIVIL RIGHTS COORDINATOR

The Compliance Officer serves as the Department's Title VI Coordinator. The position of Compliance Officer is a full-time position, which reports directly to the Office of General Counsel and the Commissioner. The Department's Title VI Coordinator is responsible for the development and implementation of the Title VI plan. The mailing address and telephone number is as follows:

Natasha Webster
DHS Title VI Coordinator
Citizens Plaza Building, 1st floor
400 Deaderick Street
Nashville, Tennessee 37243
Telephone (615) 414-4748

The Department's Title VI Coordinator ensures that the Department is in compliance with Title VI regulations and is responsible for the investigation and resolution of any Title VI complaint. The Title VI Coordinator also acts as a resource to Field Managers and Regional Supervisors who are designated as local Title VI coordinators for the DHS field offices. The local Title VI Coordinators are held responsible for compliance with Title VI regulations in the field offices.

Early assessments are conducted to ensure that the Department continues to comply with Title VI regulations. A review team made up of staff from each of the programs within the Department meets quarterly to assess the Department's compliance efforts, to make recommendations to ensure compliance, and to update the annual Title VI Implementation Plan.

Contractors with the Family Assistance Program have already designated a local Title VI coordinator. Contractors with programs other than Family Assistance will be asked again to designate local Title VI coordinators. The Department's Title VI Coordinator serves as a resource for these coordinators and assists them in implementing and maintaining Title VI compliance.

All subrecipients of funds are responsible for compliance with Title VI regulations, just like the primary recipient, and are sent a Title VI Compliance Plan Survey by the Title VI Coordinator. The Compliance Plan Survey is currently being used as a tool for DHS to evaluate the need for amendatory language within the contract regarding Title VI compliance. This information will also be used to assist internal and external auditors in performing compliance reviews, including possible additional compliance review measures to be incorporated by the Department.

SECTION 5

POLICY and GUIDELINES

General Statement of Policy

The Department reaffirms its policies to afford all individuals the opportunity to participate in federal financially assisted programs and adopts the following provision□

□No person in the United States shall, on the grounds of race, color, or national origin, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving federal financial assistance.”

The Title VI Plan is kept on file by the Department’s Title VI Coordinator and is made available to the public to review upon request. Any input received regarding the plan is maintained on file and is shared with the Commissioner and Deputy Commissioner and with the Deputy General Counsel for appropriate amendments and/or implementation.

Prohibited Practices

Practices prohibited by the Department under the code of Title VI include, but are not limited to□

- A. Denial of services, opportunity, or other benefits to which an individual is otherwise qualified;
- . Provision to any individual of services, or other benefits, which are different or are provided in a different manner from that provided to others under the program;
- C. Subjection of any individual to segregation or separate treatment in any manner related to his/her receipt of service;
- D. Restriction of an individual in any way in the enjoyment of services, facilities or any other advantage, privilege or other benefit provided to others under the program;
- E. Adoption of methods of administration which would limit participation by any group of recipients or subject them to discrimination;
- F. Subjection of an individual to forms of address that in any manner denote inferiority because of race, color, or national origin.

SECTION 6 SECTION 6 DEFINITIONS

ACCENT: Automated Client Certification and Eligibility Network for Tennessee

ADA: Americans with Disabilities Act

Agency: Any of the several federal Departments or independent agencies having Title VI responsibilities.

Applicant: One who submits an application, request, or plan required to be approved by a Department official, or by a primary recipient, as a condition of eligibility for federal financial assistance.

APS: Adult Protective Services

Assurance: A written statement or contractual agreement signed by the agency head in which a recipient agrees to administer federally assisted programs in accordance with civil rights laws and regulations.

Beneficiaries: Those persons to whom assistance, services, or benefits are ultimately provided, also known as clients.

CACFP: Child and Adult Care Food Program

CAP: Community Action Program

CFR: Code of Federal Regulations

Civil Rights Compliance Reviews: Regular systematic inspections of agency programs conducted to determine regulatory compliance with civil rights laws and regulations. Compliance reviews determine compliance and noncompliance in the delivery of benefits and services in federally assisted programs. They identify problems, such as denial of full benefits, barriers to participation, different treatment, lack of selection to advisory boards and planning committees, lack of information, and denial of the right to file a civil rights complaint. Compliance reviews may be conducted on-site or through desk audits.

Complainant: Any person who believes himself or any specific class of individuals to be subjected to discrimination prohibited by Title VI and makes or initiates the complaint in a legal action or proceeding.

Complaint: A verbal or written allegation of discrimination which indicates that any federally-assisted program is operated in such a manner that it results in disparity of treatment to persons or groups of persons because of race, color, or national origin.

Compliance: The fulfillment of the requirements of Title VI, other applicable laws, implementing regulations and instructions to the extent that no distinctions are made in the delivery of any service or benefit on the basis of race, color, or national origin. (See also conciliatory agreement and *noncompliance*.)

Compliance Review: See *Civil Rights Compliance Reviews*

Conciliatory Agreement: A voluntary agreement between a federal agency and the state or between the state and a sub recipient that provides for corrective action to be taken by a recipient to eliminate discrimination in any program receiving federal assistance.

Contractor: A person or entity that agrees to perform services at a specified price.

CSBG: Community Services Block Grant

Desk Audit: A desk audit is a structured paper review of statistical and narrative information submitted by recipients or agency program offices of compliance information obtained before or without going on-site, and conducted according to review procedures. Desk audits include routine reviews of assurance forms or other documents to ensure that they have been properly completed.

DHHS: U.S. Department of Health and Human Services

DHS: Tennessee Department of Human Services

Discrimination: To make any distinction between one person or group of persons and others, either intentionally, by neglect, or by the effect of actions or lack of actions based on race, color, or national origin.

EBT: Electronic Benefits Transfer automated system replacing food stamp coupons

Families First: Tennessee's Temporary Assistance to Needy Families program which helps families gain independence from welfare by emphasizing personal responsibility, and help them enter the work force by providing education, job training, employment activities, placement assistance, transportation, child care assistance, and other support services

Federal Assistance: Any funding, property, aid, technical assistance, grants, or partnerships provided for the purpose of assisting a beneficiary. This assistance may be provided in the form of grants, contracts, cooperative agreements, loans, loan guarantees, property, interest subsidies, insurance, direct appropriations, and other non-cash assistance. It includes assistance received directly from federal agencies, or indirectly through other units of state and local governments.

FIRST: Family Investment Resource System for Tennessee

FNS: Food and Nutrition Services (Agency of USDA)

MESS: Medicaid Eligibility Services Section

Minority: A person or groups of persons differing from others in some characteristics and often subjected to differential treatment on the basis of race, color, or national origin.

Noncompliance: Failure or refusal to comply with Title VI of the Civil Rights Act of 1964, other applicable Civil Rights laws, and implementing Departmental regulations. (See compliance.)

Parity: The proportion of minority participation to the minority eligible population of a service delivery point is the same as the proportion of non-minority participation to the non-minority eligible population of the same delivery point.

Post-award Review: A routine inspection of agency programs during and after federal assistance has been provided to the beneficiary or recipient. These reviews may be cyclical or based on a priority system contingent upon the potential for noncompliance in individual programs. Reviews are normally conducted through on-site visits; however, desk audits and other mechanisms may also be used to assess operation of federally assisted programs. A post-award review may result in a written report that shows the compliance status of agency program offices and recipients. When necessary, the report will contain recommendations for corrective action. If the program office or recipient is found to be in noncompliance, technical assistance and guidance must be provided to bring the recipient into voluntary compliance. If voluntary compliance cannot be secured, formal enforcement action is then initiated.

Potential Beneficiaries: Those persons who are eligible to receive federally assisted program benefits and services.

Pre-award Review: A desk audit of the proposed operations of a program applicant for federal assistance prior to the approval of the assistance. The Department must determine that the program or facility will be operated such that program benefits will be equally available to all eligible persons without regard to race, color, or national origin. The applicant may provide methods of administering the program designed to ensure that the primary recipient and subrecipients under the program would comply with all applicable regulations, and correct any existing or developing instances of noncompliance. If the documentation provided by the applicant for the desk audit is inadequate to determine compliance, then an on-site evaluation may be necessary.

Primary Recipient: Any recipient who is authorized or required to extend federal financial assistance to another recipient for the purpose of carrying out a program.

Program: Any program, project, or activity for the provision of services, financial aid, or other benefits to individuals, or for the provision of facilities for furnishing services, financial aid, or other benefits to individuals.

Public Notification: Process of publicizing information on the availability of programs, services and benefits to minorities and statements of nondiscrimination. This is attained through use of newspapers, newsletters, periodicals, radio and television, community organizations, and grassroots and special needs directories, brochures, and pamphlets.

Recipient: Any state, political subdivision of any state, or instrumentality of any state or political subdivision, any public or private agency, institution, or organization, or other entity or any individual in any state to whom federal financial assistance is extended, directly or through another recipient, for any program, including any successor, assignee, or transferee thereof, but not including any ultimate beneficiary under such program.

Secondary Recipient: Any recipient that receives financial assistance to carry out a program through a primary recipient or other sub recipient.

Service Delivery Point: The place in which federally assisted program services or benefits are administered to the public.

Sub-Recipients: Is an individual and/or organization that receives Federal financial assistance from the direct recipient of Federal funds.

TANF: Temporary Assistance for Needy Families – replaced federal AFDC grants as a result of the passing the federal Personal Responsibility Work Opportunity Reconciliation Act (PRWORA).

TennCare: Tennessee's Medicaid Managed Care program that provides health coverage for the states low-income children, pregnant women, and disabled.

Title VI of the Civil Rights Act of 1964, 42 U.S.C. 2000d-4: Federal law prohibiting discrimination based on race, color, or national origin. It covers all forms of federal aid except contracts of insurance and guaranty. It does not cover employment, except where employment practices result in discrimination against program beneficiaries or where the purpose of the federal assistance is to provide employment.

Vendor: An individual, group, public or private organization or institution, political entity, or commercial enterprise which, pursuant to any contract, agreement, or other arrangement with a recipient or sub recipient provides generally required goods or services which are used by or available to a beneficiary of a program.

SECTION 7 RESOURCES and TRAINING

The Department Title VI Coordinator ensures that local Title VI coordinators

- A. Are provided sufficient orientation in Title VI regulations to adequately perform their assigned duties;
- B. Are provided all materials required for administering the Title VI program (i.e., procedural manuals, posters, pamphlets, video, and forms); and,
- C. Maintain on file records, reports, and evaluations indicating the status of their Title VI compliance.

Members of the Review Team may conduct in-service Civil Rights training to their respective unit/program. The members that presently serve on the Review Team demonstrate the following gender/racial composition

	African American	American Indian	Asian	Caucasian	Hispanic	TOTAL
Female	1	1	1	7	1	12
Male	2	1	1	4	1	6
TOTAL	7	0	0	11	0	18

Staff and Contractor Training

New employees of the Department receive the Civil Rights training during orientation. Current employees are required to attend in-service training once a year. In-service training programs are ongoing to continually inform and reinforce staff of their responsibility to render a high quality of services to all clients and customers regardless of their race, color, or national origin.

Contractors from contracts entered through the Department of General Services (DGS) receive the Civil Rights training during orientation conducted by DGS. Contractors from contracts approved by the Department of Finance and Administration receive the Civil Rights training during orientation conducted by the Department's Training Coordinators from each program (i.e. Family Assistance, Energy Program, etc.). As required by their contracts, contractors must attend an orientation and the annual in-service Title VI training.

SECTION 8 DISCRIMINATORY PRACTICES

The Department monitors its local and central offices, as well as subrecipients who use federal money to provide services. As part of the in-service training, managers and subrecipients are informed that an agency is in violation of Title VI when it

- A. Denies an individual service, aid, or benefits because of race, color, or national origin;
- . Provides only inferior or discriminatory service, aid, or benefits because of any individual's race, color, or national origin;
- C. Subjects an individual to segregation or different treatment in relation to aid, services, or benefits because of race, color, or national origin;
- D. Restricts or discourages individuals in their enjoyment of facilities because of race, color, or national origin;
- E. Treats an individual differently because of race, color, or national origin in regard to eligibility for programs or services;
- F. Uses criteria which would impair accomplishment of the Act's objectives or which would subject individuals to discrimination because of race, color, or national origin;
- G. Discriminates against an individual in any program or activity that is conducted in a facility constructed even partly with federal funds; or,
- H. Subjects an individual to discriminatory employment practices under any federal program intended to provide employment.

The Department vigorously investigates all allegations of discrimination based on race, color or national origin (See Compliance Process Section 12).

SECTION 9

FEDERAL ASSISTANCE and GUIDANCE

Several federal agencies conduct Title VI compliance reviews either for the Department as a whole, or by individual program. Based on the result of the review, the Department may seek assistance and/or guidance from these federal agencies in the implementation of corrective action, if any. For example, the Office of Civil Rights conducted a compliance review of the Department as a whole and of a county office individually. These reviews were concluded, and both the Department and its county office were found in compliance.

Technical assistance is also available from the federal Departments that fund the various programs. Upon request from a sufficient number of agencies, Title VI workshops may be organized with personnel from the federal agencies assisting in compliance issues.

SECTION 10 STATEMENT OF ASSURANCES

An assurance is a promise that the applicant will comply with Title VI. The Department has determined the particular form of written assurance it will require from subrecipients.

All contracts or grant agreements between the Department and subrecipients contains the following language in all contracts or as applicable ☐

☐

"The Grantee hereby agrees, warrants, and assures that no person shall be excluded from participation in, be denied benefits of, or be otherwise subjected to discrimination in the performance of this Grant Contract or in the employment practices of the Grantee on the grounds of disability, age, race, color, religion, sex, national origin, or any other classification protected by Federal, Tennessee State constitutional, or statutory law. The Grantee shall, upon request, show proof of such nondiscrimination and shall post in conspicuous places, available to all employees and applicants, notices of nondiscrimination."

"The Grantee shall implement a plan to comply with Title VI of the Civil Rights Act of 1964, to include, but not be limited to, the training of staff on civil rights, both on an annual basis for all employees and as part of orientation training for new employees, the provision of language assistance services, and a process for receiving and investigating any complaints regarding Title VI discriminations. Such plan shall be made available to the State upon request. Such plan of services must conform to the requirements of both federal and state law and guidelines relevant to Title VI."

"The Grantee shall provide appropriate language assistance at no cost to ensure that persons are not excluded from equal program participation. Individuals who do not speak English as their primary language and who have a limited ability to read, speak, write and understand English may be limited English proficient, or "LEP". These individuals are entitled under Title VI of the Civil Rights Act of 1964 to free language assistance so they can apply for and/or access the State's services or benefits. Appropriate language assistance includes, but is not limited to, translation of documents, contract staff interpreters, contract interpreters from within the community, and a telephone interpreter service. Notice regarding the availability of interpreter services, at no cost, must be posted in a conspicuous place, available to all employees, applicants, and clients. Notice of the process for filing a complaint must also be posted in a conspicuous place for clients."

Contract Language and Title VI Compliance

The Department requires a contractor to sign and comply with Title VI regulations from all potential contracting entities before entering into contracts with these individuals or groups. Furthermore, language indicative of intended compliance with Title VI regulations is required in any proposed contract.

Examples:

- Contractors' Responsibility for Title VI Compliance (Attachment – C)
- Statement of Understanding ☐ Division of Rehabilitation Services (Attachment – D)

SECTION 11

PUBLIC NOTIFICATION

The Department and its secondary recipients inform the public about all available services and also about their rights under Title VI. The Department and its secondary recipients have ☐

- A. Taken positive and specific action to advise minorities of program availability via newspaper articles, radio, public hearings, and television announcements. The Department has also distributed letters, leaflets, brochures and bulletins to referral sources and relevant service area minority organizations;
- ☐ B. Displayed posters which inform the public about Title VI provisions and the Department's nondiscrimination policy;
- C. Informed eligible persons of new programs or changes in existing programs pertaining to eligibility benefits and services, including the location of local facilities or service delivery points and hours of service, by mailing information to minority and grass roots organizations in the area affected;
- D. Included civil rights requirements in all eligibility guidelines; and made guidelines available to the public;
- E. Provided access to Title VI information to beneficiaries, potential beneficiaries, and applicants, including ☐ procedures for filing complaints; program information; and rights of beneficiaries and applicants as reflected in legislation, program regulations, directives, and written materials for distribution;
- F. Included in some published program information a statement that the program is available to all without regard to race, color, or national origin. The statement is written in bold type and posted in a prominent location.

SECTION 12 COMPLIANCE PROCESS

Compliance Responsibility

The overall responsibility for complying with the provisions of Title VI is vested in the Commissioner of the Department, who is accountable for the administration of the Department's personnel, programs, organizational subdivisions, facilities, and offices. Compliance responsibility is also vested in the following individuals:

- A. The responsibility for coordinating Title VI compliance in both the Department and with its various contractors resides with the Office of General Counsel and the Department's Title VI Coordinator under the direction of the Commissioner.
- . Those individuals having responsibility for the Department's facilities and personnel in state, district and field offices (Assistant Commissioners, Field Directors, Regional Rehabilitation Supervisors, and Field Managers) are responsible for administering the compliance procedures and Title VI complaint processing for their respective offices or satellites offices.

The overall compliance responsibility for disseminating communications, policies, and procedures to staff, recipients, vendors, and present beneficiaries is vested in the designated individuals mentioned above. These individuals also ensure that nondiscrimination policies and guidelines are placed in a prominent location within the Department's physical offices/facilities.

Annual Title VI Compliance Reviews

Subrecipients are required to conduct an annual compliance plan survey of all programs for which they are responsible.

The survey (see Attachment E) must be completed and returned to the Department Title VI Coordinator no later than May 31 of each year.

Routine

The Office of Program Assessments of the Department of Human Services is conducting routine compliance reviews of selected grants/contracts. The selection of a particular recipient for a routine review is based on, but is not limited to, the following criteria:

- A. A periodic assessment of compliance
- . Increase in complaints

- C. Community patterns of discrimination
- D. Failure of recipient to file compliance reports or reports show patterns of discrimination
- E. Recipient receiving federal money under other programs and found to be in noncompliance
- F. Racial staffing patterns that may present a problem
- G. Previously unreviewed recipients

Resolution of Noncompliance

Procedures for achieving voluntary compliance□

- A. In cases where a complaint investigation or compliance review results in findings of noncompliance, the Department shall notify the recipient through certified mail of the apparent noncompliance. The notice shall clearly identify the conditions of noncompliance and offer a reasonable time for the recipient to willingly comply.
- . The Department shall record the date the recipient received notice, and shall note and record the last day afforded the recipient for voluntary compliance before initiating an administrative process to terminate assistance.
- C. The recipient may request a meeting for the purpose of discussing the problem areas or requirement for compliance. The principal investigator will be involved in the discussion process.
- D. The Title VI Coordinator or designee shall approve the recipient's voluntary compliance plans (plans must be written), methods, procedures, and proposed actions, if such approval will result in compliance with the act. Failure of voluntary efforts will result in termination or suspension of assistance.

Termination or Suspension of Assistance

Any action to terminate or suspend assistance shall be limited to the particular program, or part thereof, in which noncompliance has been found. General conditions for termination or suspension of assistance shall not become effective until□

- A. The Department has advised the recipient of its failure to comply and it has been determined that compliance cannot be secured through voluntary means.
- . There is a documented finding that after an opportunity for a hearing, the recipient has failed to comply with the requirements of Title VI and applicable state and federal regulations.
- C. Approval has been given by the Department Assistant Commissioner.

Annual Report

The Title VI Coordinator prepares an implementation plan detailing the goals and results of Title VI enforcement. In addition, the coordinator collects information on federal dollars provided the number of recipients, and the number of complaints received in a fiscal year. This information will be presented to the Tennessee Black Caucus Title VI Review Subcommittee during the Title VI hearing. The data is being presented in a manner whereby it can be examined to evaluate what areas need improvement or modifications to increase nondiscriminatory service.

SECTION 13

COMPLAINTS OF DISCRIMINATION

The Department resolves Title VI complaints with due diligence in accordance with complaint guideline procedures as set forth by the State of Tennessee, Department of Personnel/Tennessee Title VI Compliance Commission.

Complaint Procedures

Anyone alleging racial/ethnic discrimination against Department's personnel may file a complaint with the facility's local Title VI coordinator or directly with the Department's Title VI Coordinator. Complaints may also be filed with the Tennessee Human Rights Commission (state level); the U.S. Regional Office for Civil Rights, U.S. Department of Health and Human Services; and/or the Department of Justice (federal level). A complaint may be filed at both the state and the federal levels, separately or concurrently, at any time during the process.

- A. Instruct the complainant to submit the complaint in writing, preferably on Form HS-26-1, *DHS Civil Rights Complaint Form* (see Attachment F). The form may be filled out by the complainant, her representative, or a Title VI coordinator. A verbal complaint may be taken, but then must be written up on Form HS-26-1. Unless a complaint is already being filed at the state or federal level, it is preferred that all complaints be first filed at the local level within thirty (30) days of the alleged discriminatory act, but no longer than 180 days. Experience shows that complaints are more easily resolved at the point of origination.
- B. Record the complaint in the Title VI Complaint Log. List complainant identification and type/status of complaint.
- C. Send the original copy of the complaint to the Department Title VI Coordinator in Nashville (include all pertinent documentation). Give a copy of the complaint to the complainant and retain one (1) for facility files. The local Title VI coordinator must notify the Department Title VI Coordinator immediately when any complaint is filed.
- D. Mail a letter to the complainant acknowledging receipt of the complaint within five (5) calendar days of the date that complaint was received.
- E. Conduct fact-finding investigations within thirty (30) calendar days of receipt of the complaint. The local Title VI coordinator is responsible for this initial investigation.
- F. Report investigation findings to Departmental management within five (5) days of completion of investigation. If the report includes a finding of

violation of Title VI, the facility should include any proposed remedial action in the *Report of Investigation*, Form HS-26-2 (see Attachment G). Within five (5) calendar days after this report, the written findings will be given to the complainant. At this time, the complainant will also be informed of their right to appeal to the state or federal level if there is disagreement with investigation findings or the proposed remedial action .

- G. To file an appeal - instruct the complainant to complete Form HS-26-4, *Appeal from Finding* (see Attachment H). The local coordinator must forward to the Departmental coordinator a copy of the complaint, the findings, the proposed action, and the request for an appeal within ten (10) calendar days after the date of the appeal. The form will then be forwarded to the Tennessee Human Rights Commission (THRC) or the complainant may mail the form directly.

Tennessee Title VI Compliance Commission
111 Deaderick St.
James E. Polk Building
Nashville, TN 37243-6000
(615) 253-6717

The complainant may also file an appeal with the U. S. Department of Health & Human Services or other federal agency.

- U.S. Department of Health & Human Services
Office for Civil Rights
Atlanta Federal Center
61 Forsyth Street, S.W., Suite 700
Atlanta, GA 30333
Phone (800) 668-1191/(404) 621-7886

To file a complaint or an appeal concerning a Food Stamp case, a client must contact:

- U.S. Department of Agriculture
Food and Nutrition Service
61 Forsyth St. S.W.
Room 8T-6
Atlanta, GA 30333
Phone (404) 621-1808

General Information

According to federal regulations, a federal complaint (to the U.S. Department of Health and Human Services, Department of Justice, or other federal agency) must be filed no later than 180 calendar days after the alleged discrimination occurred. To allow a complainant time to file sequentially within the Department and eventually to the Department (if desired) the complaint should be filed at the local or Departmental level no later than 90 calendar days after the alleged discrimination occurred. If a complaint is filed beyond the 90 calendar day period,

the Department will still investigate and process the complaint if the filing is prompt enough to allow the Departmental proceedings to be concluded and still leave sufficient time for the complainant to file externally.

If a complaint is filed both within the Department and externally to the Department (state or federal level) during the same period, the external complaint supersedes the internal complaint filing; accordingly, the local or Departmental level complaint procedures will be suspended pending outcome of the external complaint.

A complainant has the right to withdraw their complaint or appeal request at any time. The withdrawal must be submitted in writing, preferably on Form HS-2600, *Withdrawal of Complaint or Appeal for Fair Hearing* (see Attachment I).

Forms and Reports

- Form HS-2601, *DHS Civil Rights Complaint Form*, may be used for filing complaints. In lieu of using the complaint form, the complainant can prepare a letter describing the complaint.
- Form HS-2602, *Report of Investigation*, may be used to summarize and report the findings of an investigation; or the general outline of the form can be incorporated into a report structured by the investigator, if it addresses the essential issues outlined in the form.
- Form HS-2600, *Withdrawal of Complaint or Appeal for Fair Hearing*, should be used if a complaint or a request for appeal (to the state level) is withdrawn. A request for withdrawal must be in writing.
- Form HS-2604, *Appeal from Finding*, may be used to appeal a finding or the proposed remedial action by the agency, to the state level (Tennessee Human Rights Commission).
- *Title VI Compliance Plan Survey*, must be submitted annually by each agency to report facility demographics, including racial and ethnic data.

Summary of Complaints

Total complaints received during F□2□□8□	14
General nature of the complaints□	
Racial	□
National Origin	□
Other non□related complaint	6
Total open complaints from F□ 2□□8□	□
Total complaints closed administratively or for lack of jurisdiction□	1
Total complaints referred to another agency□	□
Total complaints resolved□	1□
Total complaints valid□	□
How the complaints were resolved□	Investigations

SECTION 14

DATA COLLECTION AND ANALYSIS

The Department has developed a data collection program that collects participation data for each program by service delivery point. The system enables the Department to define parity of participation for minority groups and establishes participation targets in each program on an annual basis. The system also aids in the identification of service delivery points that need corrective action.

The population eligible to participate in a program is identified by racial/ethnic category for each service delivery point. The information is derived from standard statistical sources such as the federal census and other federal and state agencies.

The ACCENT system serves as the resource for obtaining the data needed for determining Food Stamp and Families First participation. In the Vocational Rehabilitation program, TRACTS provides the data on client participation. Other databases are used as resources for other programs including Child Care and Child Support. For programs without databases, client participation data is obtained from survey/application forms.

All data are retained as long as required by state and federal law.

From the information gathered above, a civil rights evaluation report is developed. The report contains□

- A. A comparison of actual racial/ethnic participation to the eligible racial/ethnic population for each program by service delivery point;
- . Service delivery points where the proportion of minority participation is below the proportion of non□minority participation;
- C. An e□planation of changes in data which reflect apparent inequities in the delivery of benefits;
- D. Actions to be taken with those service delivery points where minority participation is below the established target or the proportion of non□minority participation;
- E. Achievements made in the prior year in reaching more eligible participants;
- F. E□amination of recipient program staffing patterns to determine if staffing patterns indicate possible discrimination in program delivery on the basis of race, color or national origin.

In the compliance plan survey submitted by the contractors, information on services to minority citizens is provided. The information identifies the racial composition of the contractor's staff, and any parent board or commission, and of the contractor's potential services universe. Failure to correctly submit this information to the DHS Title VI Coordinator in a timely manner could result in sanction of the contractor for failure to comply with Departmental Title VI guidelines.

The DHS Title VI Coordinator may undertake periodic "On-Site" audits of randomly selected contractors. Failure to cooperate in such an audit may result in a non-compliance sanction.

The DHS Title VI Coordinator will maintain for a period of three years all agency compliance plan surveys relating to Title VI Civil Rights compliance.

SECTION 15 MINORITY REPRESENTATION

Planning and Advisory Bodies

Whenever a planning or advisory body, such as a board or committee, is an integral part of the recipient's program, the facility or agency should take such steps as are necessary to ensure that minorities are notified of the existence of such bodies and are provided equal opportunity to participate as members. The Department's Commissioner requires each board to take reasonable steps in recruiting minority participants.

While gathering demographic information, the Department found that minorities were not as well represented on many of our Advisory Boards as they could or should be. To increase these numbers, each division within the Department was instructed to actively recruit minority members. They have also had to provide an explanation to the Commissioner on how they have made these efforts. These efforts have produced a positive outcome.

Minority Representation On Boards And Advisory Bodies

The Department has numerous advisory councils, boards and committees, many of which are mandated by federal or state law. These include the following:

- Adult Day Care Advisory Committee
- Child Care Board of Review
- Child Care Resource and Referral Advisory Board
- Child Care Licensing Standards Committee (Child Care Centers)
- Child Care Licensing Standards Committee (Drop In Centers)
- Child Care Licensing Standards Committee (Family and Group Homes)
- Child Care Licensing Standards Committee (Shift Care)
- Child Care Report Card and Rated Licensing System Advisory Council
- Child Care Services Criminal Exclusion Advisory Committee
- Local Families First Advisory Councils
- State Rehabilitation Council
- Statewide Independent Living Council
- Tennessee Council for the Deaf and Hard of Hearing
- TRC at Camden Advisory Board
- TRC at Clarksville Advisory Board
- TRC at Cleveland Advisory Board
- TRC at Columbia Advisory Board
- TRC at Cookeville Advisory Board
- TRC at Dyersburg Advisory Board
- TRC at Elizabethton Advisory Board

TRC at Franklin Advisory Board
TRC at Gallatin Advisory Board
TRC at Greeneville Advisory Board
TRC at Manchester Advisory Board
TRC at Maryville Advisory Board
TRC at Murfreesboro Advisory Board
TRC at Paris Advisory Board
TRC at Shelbyville Advisory Board
TRC at Union City Advisory Board
TRC at Winchester Advisory Board
TRC State Advisory Board
Weatherization Assistance Program Policy Advisory Council

A list of members of the active advisory councils, boards, and committees by ethnic groups is maintained by the Department's Title VI Coordinator, and is available for inspection upon request.

SECTION 16 DOCUMENTATION OF MINORITY INPUT IN THE DEVELOPMENT OF THE PLAN

The Department's Internal Title VI Implementation Plan Review team included:

Jerry Aymett	Program Integrity	White Male
Thelma Berry-Wilkerson	Child Support	Black Female
Pam Boyd	Appeals	White Female
Joy Stoots	Family Assistance	White Female
Bill Dillard	Community Services	White Male
Wanda Faust	Information Systems	White Female
Cathryn Hinton	Tenn Rehabilitation Center	White Female
Regina Surber	Community Services	White Female
Wilma Frierson	Personnel	Black Female
Sherry Bundy	Office Services	White Female
Samuel Cole	Vocational Rehabilitation	Black Male
Natasha Webster	Title VI Coordinator	Black Female
Rick Brown	Fiscal	White Male
Dennis Prewitt	Area Manager	White Male
Linda Wilkerson	Area Manager	White Female
Henry Washington	Area Manager	Black Male
Robbie Pillow	Regional Supervisor	Black Female

* Note: Those with * have since then taken the state voluntary buy-out

SECTION 17

COORDINATION WITH OTHER AGENCIES

The Department's Office of Program Assessments, monitors selected grant and contracts. Compliance with Title VI and other civil rights laws is part of the monitoring review by this office.

The Department's Title VI Coordinator will select a sample of the grants/contracts not reviewed by Administrative Review for annual compliance review during FY2006.

The Department has also created an external Title VI review team made up of contractors and other community organizations. The external team assists the Department's Coordinator in ensuring that all information in the Implementation Plan is accurate, and that DHS' services are equally accessible to all eligible Tennesseans.

SECTION 18

EFFECTING COMPLIANCE

Title VI Posters, Pamphlets, and Videos

Posters advising contractors, clients and customers of their obligations and rights under Title VI are distributed periodically to all facilities covered under this plan. The posters are prominently displayed at each facility, office or satellite offices.

Each facility, office or satellite office maintains a supply of pamphlets explaining Title VI and makes these pamphlets available to each new participant, client or customer.

The Department uses the video *Understanding and Abiding by Title VI of the Civil Rights Act* for Title VI training.

Staff and Contractor Training

New employees receive their first Civil Rights training during orientation conducted by the Department's Office of Personnel. Current employees are required to attend the in-service Title VI training once a year. In-service training programs are continually held to reinforce to staff their responsibility to render quality services to all clients and customers regardless of their race, color, or national origin.

Conexion Americas is an organization that has helped DHS meet the needs of the Hispanic community. Through this organization, front line staff has received training in cultural competency and are better able to serve the total individual. Since March 2000, *Conexion* has mandatory training to an estimated 1,978 DHS employees. *Conexion* has also provided technical assistance to aid DHS with signage, training of new employees, forms and civil rights training in general. A member of the *Conexion* team is a part of the external Title IV team that reviews and offers suggestions for our Title VI Implementation plan.

Contract Language and Title VI Compliance

The Department requires all subrecipients to sign a contract that includes a non-discrimination statement concerning its intent to comply with Title VI regulations. Furthermore, language indicative of intended compliance with Title VI regulations is required in any proposed contract.

Failure to Comply with Title VI Regulations

Contractors who refuse to comply with either Departmental Title VI regulations or the provisions of Title VI of the Civil Rights Act of 1964 will be barred from providing contract services until such time as the Office of the General Counsel certifies that the contractor in question has reached compliance.

Likewise, no federal, state, or Departmental funding of the activities of any contractor shall be made as long as the contractor is substantially out of compliance with Title VI regulations.

Any state employee or contractor found guilty of violating the provisions of Title VI will be given written notice. Failure to eliminate further discrimination within thirty (30) days of receipt of notice will be considered a violation of the terms of the contract and a basis for contract suspension, termination or rejection. The enforcement procedure by DHS for termination of the contractor from participation as a recipient of federal financial assistance will be in accordance with the enforcement procedures contained in 48 C.F.R. 81.9, 81.11, and 81.11.

Discipline of State Employees Guilty of Title VI Discrimination

If a state employee is found guilty of any discriminatory practice based on Title VI provisions, it is recommended that the employee receive progressive disciplinary actions. For example, a verbal reprimand may be given for the first offense, a written reprimand may be placed in his/her personnel file for the second offense, and a suspension without pay (from one day to as many as 30 days, depending on the violation) may be issued for the third offense. A fourth offense should be considered as sufficient grounds for dismissal.

Effecting Compliance

Contractors seeking to enter into a contractual agreement with the Department should understand the requirements to establish an acceptable plan for Title VI Compliance prior to the final award of the contract.

Resolution of Noncompliance

Noncompliance results when any civil rights compliance reviewer finds that any civil rights law or regulation is not being adhered to. All practical efforts will be made to obtain voluntary compliance before there is a refusal, suspension or termination of federal financial assistance.

Procedures for Achieving Voluntary Compliance

- A. The Department notifies the recipient of the apparent noncompliance.
- ☐. A meeting is held to discuss the problem areas or requirements for compliance.
- C. A written plan of corrective action is requested.
- D. The Title VI Coordinator approves the corrective action plan if implementation of the plan will result in compliance with Title VI requirements.

Termination or Suspension of Assistance

Any action to terminate or suspend assistance will be limited to a particular recipient against whom a finding of noncompliance has been made and will be limited in its effect to the particular program in which noncompliance has been found. Termination or suspension of assistance will become effective when ☐

- A. The Department has advised the recipient of its failure to comply and it has been determined that compliance cannot be secured through voluntary means;
- ☐. There is a documented finding that after an opportunity for a hearing, the recipient has failed to comply with the requirements of Title VI and applicable state and federal regulations;
- C. Approval has been given by the Commissioner.

SECTION 19

LIMITED ENGLISH PROFICIENCY (LEP)

The U.S. Department of Health and Human Services issued a guidance memorandum titled "Title VI Prohibition Against National Origin Discrimination – Persons with Limited English Proficiency" on January 29, 1998. This memorandum addresses language assistance that may be required to communicate with potential recipients of federally funded services. A revised guidance was issued on January 6, 2006 for review and comment.

In order to ensure compliance with Title VI, the Department has taken steps to ensure that persons with Limited English Proficiency (LEP) have meaningful access when applying for and/or inquiring about our assistance programs. The most important step in meeting this obligation is to provide the language assistance necessary to ensure prompt access, at no cost to the person. The Department ensures that communication tools are provided to LEP customers. The following is a list of resources the Department is using at this time:

- Interpreter Services: Telephone interpreters through *Open Communications International*, are available when a local interpreter is not available at the time and place needed. This service is available for all programs in the Department. A representative from each program has been trained on the use of telephone interpreting services.
- Translating notices into Spanish as needed – All system-generated notices in Family Assistance have been translated and are available for use.
- Bilingual staff – Approximately 1 percent of our staff at the Department – speaks more than one language. The Department will continue to seek assistance in recruiting bilingual staff members.
- Contracting with an outside interpreter service – The Department has contracted interpreters in many of the 9 counties of the state.

SECTION 20 GOALS

Implementation:

To provide and implement uniform standards for policy and procedures that ensure all persons, regardless of their race, color, or national origin, are allowed to participate in any programs within by the Department.

Compliance:

To maximize the number of recipients, contractors, and employees in compliance with civil rights requirements through proactive or preventive program of outreach, application, technical assistance and monitoring.

Oversight Management:

To provide the necessary management oversight and policy direction to ensure that the standards and procedures are being adhered to in a manner that result in timely, consistent, equitable and effective enforcement of the Title VI program.

Data Collection:

To maintain a system of data collection that provides valid and reliable data for evaluation of participation, program effectiveness, and needs assessment.

Training/Development:

Continue to provide training that educates and enables those responsible for the implementation and management of the Title VI program to do their job effectively and disseminate information relative to requirements, eligibility, policy, and change, for the education and awareness of others.

SECTION 21 OBJECTIVES

Implementation

- A. To develop a plan for implementation that would
 - 1. Require a nondiscrimination statement in all published program information;
 - 2. Require Civil Rights requirements in all eligibility guidelines;
 - ☐ Inform eligible persons of new programs or changes in existing programs;
 - 4. Provide a method to disseminate policy to non-English speaking groups if applicable to a particular community;
 - ☐ Require use of media, community groups, posters, and brochures;
 - 6. Suggest techniques and methods for communicating policies to staff, other recipients, vendors and present and potential beneficiaries;
 - 7. Require specific actions to be taken to eliminate discrimination.
 - ☐ Require that management assure necessary implementing instructions and procedures throughout the Department.
- C. Provide a list of Department programs and activities covered by Title VI.
- D. Provide methods of administration for the programs to assure that recipients will comply with all of the requirements and give reasonable assurance that any noncompliance will be corrected.
- F. Report on the contractors past year's activities and detail short-term strategies and activities that each contractor will undertake to achieve long range goals.
- G. Coordinate with other state Departments on matters of community-wide reviews and designation of primary interest Department in multiple investigations.
- H. Develop/revise forms for all relevant filing, documentation and reporting.

- I. Establish and maintain a system of maintaining and providing public access to all Title VI information upon request.

Compliance

- A. The Department will guarantee that Title VI assurances should be made a part of all contracts.
 - ☐ By accepting contract assurances, the Department agrees to maintain records and submit reports as required to permit effective enforcement of Title VI. As primary recipients, state agency requirements include:
 1. Identifying recipients and subrecipients;
 2. Executing written assurance agreements with each recipient;
 - ☐ Keeping agreements current;
 4. Including all applicable programs and services in assurance agreements;
 - ☐ Reviewing subrecipients operations.
- C. List the procedures for effecting compliance and for handling complaints of discrimination.
- D. Provide agency-wide policies and procedures for uniform evaluation of compliance reviews and investigations from the standpoint of voluntary compliance and enforcement action.
- E. Ensure that the Department Title VI Coordinator will conduct compliance reviews and those reviews should determine:
 1. Whether all beneficiaries, regardless of race, color or national origin, are adequately informed on availability of recipient's service on an equal basis;
 2. Whether different admission standards are applied to certain applicants openly or under cover of reasonable educational, financial, or other qualification;
 - ☐ Whether referrals are made to other recipients or vendors who discriminate;

4. Whether referrals are made to employers on a racial basis;
 - ☐ Whether the services supplied are furnished in a different way to some beneficiaries;
 6. Whether recipients have implemented all procedures and activities with the agencies published statement of compliance;
 7. Whether employment practices ☐ for those contractors where providing employment is the contractor's objective (i.e. recruitment, hiring, promotions, assignments, and training) are without discrimination.
- F. List examples of prohibited discriminatory practices specific to the Department for staff to study and know. These include ☐
1. To deny an individual of any service, financial aid or other benefit provided under any program of the Department;
 2. Any distinction in quality, quantity, or manner in which a benefit is provided;
 - ☐ The segregation or separate treatment in any part of a program;
 4. Any restriction in the enjoyment of any advantage, privilege or other benefits that are provided to others;
 - ☐ Any differentiation of standard or requirement for participation from a particular group (i.e. Asian);
 6. Any method of administration that would directly or through contractual relationships defeat or substantially impair the accomplishment of effective non-discrimination;
 7. The discrimination of any activities conducted in a facility built in whole or in part with federal funds;
 8. Any discrimination in employment resulting from a program that has a primary purpose of providing employment.

Oversight

- A. Provide uniform standards for conducting and reporting compliance reviews and investigations including guides and forms. This may include a program and schedule for compliance review (see compliance objectives).
- . Establish and disseminate procedures for conducting complaint investigations.
- C. □onitor subrecipients relative to complaints and compliance.

Data Collection

- A. Develop and maintain information on community racial relations by census results, population, employment, education, and other indices pertinent to program evaluation/compliance assessment.
- . □y accepting contract assurances, the Department agrees to compile data and submit reports to the Title VI Coordinator as required to permit effective enforcement of Title VI. As primary recipient, the Department's requirements include□
 - 1. Compiling lists of Title VI assurances received, and
 - 2. □aintaining a log of all filed complaints.
- C. To meet the minimum standards, the Department□
 - 1. Collects participant's data by race and national origin;
 - 2. Evaluates programs to determine the number of beneficiaries by race and national origin;
 - . Identifies potential beneficiaries and applicants;
 - 4. Analyzes applicable census data;
 - . Analyzes participant's data;
 - 6. Assesses evaluation;
 - 7. Implements steps to correct any deficiency.

Training / Development

- A. Disseminate information to each program about the following
 - 1. Designated contact person
 - 2. Authority to implement Civil Rights laws and regulations
 - ☐ Organization
 - 4. Instructions/guidelines on how to comply with Civil Rights laws and regulations
 - ☐ Long-range goals
 - 6. Short-term goals
 - ☐ Develop and conduct regular training schedule.
- C. Develop training for programs other than Family Assistance relative to information such as
 - 1. Nondiscriminatory policies;
 - 2. Requirements of federal agency in implementing Title VI;
 - ☐ Techniques and methods for communicating policies to staff, other recipients, vendors, and present and potential beneficiaries;
 - 4. Specific actions to be taken to eliminate discrimination;
 - ☐ Plans for developing skills for gathering information;
 - 6. Guidelines for conducting compliance reviews;
 - 7. Technical assistance from federal counterparts.

SECTION 22 ATTACHMENTS

Attachment A	Public Chapter 1002 Public Acts of 1991
Attachment B	Executive Order 1006
Attachment C	Contractors' Responsibility for Title VI Compliance
Attachment D	Statement of Understanding Division of Rehabilitation Services
Attachment E	<u>Title VI Compliance Plan Survey</u>
Attachment F	<u>Complaint Under Civil Rights Act of 1964</u> (Form HS-26-1)
Attachment G	<u>Report of Investigation</u> (Form HS-26-2)
Attachment H	<u>Appeal from Finding</u> (Form HS-26-4)
Attachment I	<u>Withdrawal of Complaint or Appeal for Fair Hearing</u> (Form HS-26-3)